REMARKS

This Amendment is being presented as part of a Request for Continued Examination of the above-identified patent application, and is in response to a Final Office Action rendered on February 18, 2003.

On April 3, 2003, Applicant submitted a RESPONSE UNDER 37 CFR 1.111 and 1.116, in which Applicant pointed out why the Examiner's rejection of the claims were improper.

On June 2, 2003, the Examiner issued an Advisory Action stating that the previous response would be entered for purposes of appeal, but that the arguments were not considered to place the application in condition for allowance.

Based upon the Examiner's refusal to allow this application, Applicant is filing a Request for Continued Examination in conjunction with is Amendment.

Applicant also requests that the RESPONSE UNDER 37 CFR 1.111 and 1.116 be entered in this Request for Continued Examination, and that the Examiner consider the arguments presented in that Response.

Claim 1, which is the only independent claim in this application relates to a multilayer-metallizable white opaque film that includes at least three layers; namely, an internal core layer and opposed outer skin layers that are thinner than the core layer. Claim 1 really specifies that one of the outer layers, which is a non-voided layer, has a surface that is oxidatively treated to receive a metal layer thereon. Claim 1 further specifies that the opposed outer skin layer which is the layer that is constructed and designed to receive an aqueous cold glue adhesive must be a voided layer.

Specifically, Claim 1 specifies that the outer skin layer for receiving an aqueous cold glue adhesive includes "a sufficient amount of a void-creating additive to provide sufficient porosity for the absorption of an aqueous cold glue adhesive of the type employed to adhere a label to a container."

Thus, in summary, the multilayer-metallizable white opaque film claimed herein requires that one outer skin layer has a sufficient degree of porosity for receiving an aqueous cold glue adhesive, and that the opposed outer skin layer, which is designed to receive a metal layer thereon, is a non-voided layer that is oxidatively treated to receive the metal layer thereon.

In refusing to accept Applicant's arguments presented in response to the Final Office Action, the Examiner, in her Advisory Action, took the position that the limitation in Claim 1 "to provide sufficient porosity for the absorption of an aqueous cold glue adhesive of the type employed to adhere a label to a container" is a product by process claim limitation which is given very little patentable weight in a product claim. Applicant respectfully disagrees with this position.

It has been clearly established that claiming a product limitation in the form presented in Claim 1 is entirely acceptable and does need to be considered in assessing the patentability of the claim. This language is commonly used in claiming inventions related to drugs, as well as in other products.

Claim 1 makes it clear that the voided outer skin layer is intended to receive the aqueous cold glue adhesive thereon. There is absolutely no suggestion of such a structure in the Alder, et al. '136 patent, which is the primary reference relied upon by the Examiner in her final rejection in the claims

of this application. In fact, the Alder, et al. '136 patent discloses a structure that is completely unrelated to the invention specified in Claim 1.

As was pointed out earlier, the Alder, et al. invention is, at a minimum, a three-layer structure including a relatively thick base layer, which, from a thickness standpoint, is analogous to a core layer of the type employed in the present invention, a non-voided intermediate layer and a top heat-sealable layer.

As Applicant previously pointed out, it is critical to the Alder, et al. construction that the intermediate layer be non-voided and be designed to actually rupture when the film is intended to be removed from a substrate to which it is adhered through a heat-seal adhesive layer. It is critical to the Alder, et al. structure that the heat-sealable layer, which in fact, is the outer skin layer of the film, be adhered to a non-voided intermediate layer.

In the Advisory Action, the Examiner makes the following statement:

> "Applicant argues Adler does not remotely suggest the selection of an amount of void creating additive in the intermediate layer. As previously indicated, Alder shows a polyolefin, opaque, pigmented and biaxially oriented film comprising a base layer, which is interpreted to be the core layer."

Applicant does not understand the significance of the Examiner's position. In fact, the position taken by the Examiner appears to support Applicant's position, that the presently claimed invention is patentable.

First, Applicant agrees with the Examiner that, at best, the base layer disclosed in Alder, et al. is analogous to the claimed "core layer." In fact, Claim 1 clearly specifies that the outer skin layers are thinner than the specified core layer. In the Alder, et al. structure, the base layer clearly is the thickest layer, and on that basis, would be similar to the core layer specified in Claim 1 of the present application.

The Examiner's observation that the base layer in Alder, et al. is equivalent to the core layer specified in the claims herein does not address Applicant's argument that the Alder, et al. reference fails to suggest a selection of any amount of a void-creating additive in the intermediate layer. Stating this another way, this latter position by Applicant has not been refuted by the Examiner.

The fact remains that the Alder, et al. patent clearly teaches that the heat-sealable layer be placed on a non-voided intermediate layer. This hardly constitutes a teaching of a structure having an outer skin layer including a sufficient amount of a void-creating additive to provide sufficient porosity for the absorption of an aqueous cold glue adhesive of the type employed to adhere a label to a container.

In summary, Alder, et al. does not remotely suggest any film intended to be used with an aqueous cold glue adhesive. Moreover, even if one were to leave that limitation out of Claim 1, which would be entirely inappropriate, the adhesive layer in the Alder, et al. patent is secured to a non-voided intermediate layer, which is a critical feature of the Alder, et al. invention.

In this Amendment, Applicant has also added additional dependent Claims 21 through 26. These claims each specify the additional component of an aqueous cold glue adhesive being adhered to the opposed outer skin layer specified in Claim 1. These latter claims more particularly point out

the completed structure of the film, which includes the aqueous cold glue adhesive as part of the construction. Clearly, the Alder, et al. '136 patent does not remotely suggest this combination.

Applicant has also made of record in an accompanying Information Disclosure Statement, U.S. Patent No. 6, 517,664, issued to Dronzek, Jr. on February 11, 2003. This latter patent discloses a low density polymeric label intended to be employed with a water-based adhesive. In accordance with the preferred teachings in this patent, a separate hydrophillic layer is applied to the label to aid in adhering an aqueous cold glue adhesive to the structure. This patent does not teach or render obvious the multilayer films specified in the claims of the present invention.

In view of the above remarks, Applicant submits that the claims presented herein for consideration in this Request for Continued Examination set-forth patentably novel subject matter and an indication to that effect is respectfully requested.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

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By _____
Barry A. Stein, Esq.
Registration No. 25,257
Customer No. 03000
(215) 567-2010
Attorneys for Applicant

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